***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY***

***Writ Petition No.11285 of 1995***

***Date:18.04.2007***

Between

Atluri Rajendra Prasad.

----------Petitioner

And

Andhra Pradesh State Electricity Board and others.

----------Respondents

***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY***

***Writ Petition No.11285 of 1995***

***ORDER:***

Petitioner is an agriculturist. He obtained power supply through Service Connection No.299 of Kakatiyanagar, Krishan District, to run a 5 HP motor, to irrigate his lands. The power supply disconnected in March 1993, for non-payment of consumption charges. The fields of the petitioner were visited by the officials of the respondents on 19.07.1993. Alleging that the petitioner had connected a load of 12.5 HP, in contravention of provisions of the terms and conditions of supply, a demand was raised against the petitioner. Thereupon, the petitioner approached this Court by filing W.P.No.11303 of 1993. The Writ Petition was dismissed, directing the petitioner to pay a sum of Rs.17,000/-, pending the proceedings of final assessment before the Superintending Engineer.

The order of final assessment was passed by the

Superintending Engineer on 26.10.1994, holding that the petitioner is liable to pay a sum of Rs.99,088-75 ps. The petitioner filed an appeal before the third respondent, against the same. The appeal was dismissed through order, dated 25.05.1995. Hence, this Writ Petition.

Sri K.Rajendar, the learned counsel for the petitioner submits that undisputedly the power supply to the petitioner was disconnected in March 1993 and on the date of disconnection, no acts of pilferage or theft of power were noticed. He contends that the petitioner was running the motor of 5 HP load and that the other motor of 7.5 HP load was owned by another person, by name Koteswara Rao. He submits that the third respondent did not take these vital aspects into account and had mechanically affirmed the order of final assessment.

Sri Ajay Kumar, the learned Standing Counsel for the respondents, on the other hand, submits that the inspection disclosed that the petitioner was utilizing the load to the extent of 12.5 HP and that the amount was levied, in accordance with the formula contained in the terms and conditions of supply.

Though the petitioner disputes the fact that the load of 12.5 HP was found as on the date of inspection, this Court is not inclined to accept the same. Being a pure question of fact, the version contained in the record deserves to be taken

into account.

The respondents assessed the consumption charges and penalty, proceeding on the assumption that the petitioner was utilizing the power to run 12.5 HP motor, from the date of obtaining connection. Had the event of inspection not been preceded by any visit by the respondents, the assumption of the respondents could have gained credibility. It is a matter of record that the power supply to the petitioner to run 5 HP motor was disconnected in March 1993. An official of the respondents has visited the spot to effect disconnection. On that day, he did not notice any additional load having been connected. An unauthorized act on the part of the petitioner can naturally be only subsequent to the date of disconnection. The inspection was undertaken on 19.07.1993. Therefore, the consumption charges that can be levied against the petitioner must be for the period between the date of disconnection and the date of inspection. The levy of penalty etc., must be commensurate with that. This aspect of the matter was not dealt with by the primary as well as appellate authorities.

Therefore, the Writ Petition is partly allowed, directing modification of the impugned order, to the effect that the levy of consumption and other related charges must be for the period between the date of disconnection i.e., March 1993 and the date of inspection i.e., 19.07.1993. To avoid further complications and delay in the matter, it is directed that the

consumption charges for that period and an equal sum towards penalty would discharge the liability of the petitioner. The petitioner had already deposited a sum of Rs.17,000/-. If that amount is sufficient, to cover the liability, he shall not be required to pay any further amount. On the other hand, if there is any deficit, the petitioner shall be given four (4) weeks' time from the date of calculation to pay balance. There shall be no order as to costs.

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**JSU**
**18.04.2007**